



FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 27

[WT Docket No. 19-348; DA 21-1024; FRS 44893]

Wireless Telecommunications Bureau Seeks Comment on the Selection Process for and Operation of the Reimbursement Clearinghouse for the 3.45 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: In this document, the Wireless Telecommunications Bureau (the Bureau) seeks comment on the appropriate industry stakeholders to form a search committee to select a Reimbursement Clearinghouse (Clearinghouse) to oversee the reimbursement of relocation expenses for certain secondary non-federal radiolocation licensees in the 3.45-3.55 GHz band (3.45 GHz band). The Bureau also seeks comment on other issues related to the Clearinghouse search committee process.

DATES: Interested parties may file comments on or before [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]; and reply comments on or before [INSERT DATE 25 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by WT Docket No. 19-348, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/> in docket number WT Docket No. 19-348. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings in response to this Public Notice may be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority

Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington DC 20554.

- Until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID-19. *See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy*, Public Notice, DA 20-304 (March 19, 2020). <https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy>

FOR FURTHER INFORMATION CONTACT: Joyce Jones, Wireless Telecommunications Bureau, Mobility Division, (202) 418-1327 or joyce.jones@fcc.gov. For information regarding the PRA information collection requirements, contact Cathy Williams, Office of Managing Director, at 202-418-2918 or Cathy.Williams@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice in WT Docket No. 19-348, DA 21-1024, released August 20, 2021. The full text of the Public Notice is available for public inspection at the following internet address: <https://www.fcc.gov/document/345-ghz-clearinghouse-search-committee-public-notice>. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to FCC504@fcc.gov or calling the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before the dates indicated on the first page of this document.

Ex Parte Rules

This proceeding shall continue to be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules (47 CFR 1.1200). Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte*

presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Supplemental Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980 (RFA), the Bureau has prepared a Supplemental Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and requirements proposed in the Public Notice. It requests written public comment on the Supplemental IRFA contained in the Public Notice. Comments must be filed in accordance with the same deadlines as comments filed in response to the Public Notice as set forth on the first page of this document and have a separate and distinct heading designating them as responses to the Supplemental IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the Public Notice, including the Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Paperwork Reduction Act Analysis

This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small

Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Synopsis

In the 3.45 GHz Band Second R&O, the Commission adopted rules to make 100 megahertz of mid-band spectrum available for flexible use throughout the contiguous United States. To facilitate this goal, the Commission previously had determined that secondary, non-federal radiolocation licensees in the band would be relocated to the 2.9-3.0 GHz band. In the 3.45 GHz Band Second R&O, the Commission further determined that secondary, non-federal radiolocation authorizations would sunset 180 days after new 3.45 GHz Service licenses are granted in the band. In addition, the Commission required new flexible-use licensees in the 3.45 GHz Service to reimburse secondary, non-federal radiolocation licensees for reasonable costs related to the relocation of those operations to the 2.9-3.0 GHz band, including the costs of a relocation clearinghouse’s administration of the reimbursement. Specifically, each new 3.45 GHz Service licensee will be responsible for reimbursement of a pro rata share of reasonable relocation costs of non-federal radiolocation operations.

The Commission in the 3.45 GHz Band Second R&O delegated authority to the Bureau, working in coordination with the Office of the Managing Director, to develop and implement a clearinghouse selection process similar to the process used in the 3.7 GHz proceeding. Consistent with that delegation, the Bureau now seeks comment on the appropriate industry stakeholders to be included in the search committee for a 3.45 GHz band Clearinghouse. As in the 3.7 GHz proceeding, the Commission in the 3.45 GHz Band Second R&O provided for the creation of a neutral, independent clearinghouse to oversee the collection and distribution of relocation reimbursement payments from new 3.45 GHz Service licensees to non-federal secondary radiolocation incumbents. Unlike in the 3.7 GHz context, however, in the 3.45 GHz proceeding, the Commission did not identify the specific industry stakeholders who would compose the search committee to select the Clearinghouse.

In the 3.7 GHz proceeding, the Commission determined that the clearinghouse search committee would be composed of nine members appointed by nine entities that the Commission found, collectively, reasonably represented the interests of the stakeholders in the 3.7 GHz band transition. These entities

represented incumbents in the band (space station operators—three entities, and earth station operators—three entities) and prospective flexible-use licensees (three entities). The Commission determined that the range of entities it had chosen would fairly represent the broad interests of the relevant stakeholders in the 3.7 GHz band transition. The Commission directed the search committee to proceed by consensus, but noted that if a vote on the selection of a clearinghouse was required, it would be by a majority vote.

As in the 3.7 GHz proceeding, the Bureau expects that an effective 3.45 GHz Clearinghouse search committee should be composed of a mix of entities representing incumbent and prospective licensee interests. The Bureau seeks comment on which industry stakeholders should be included in the 3.45 GHz Clearinghouse search committee. The Bureau notes that in this proceeding, incumbents are two broadcasters—NBCUniversal and Nexstar—operating weather radar systems in the band. Are incumbent interests sufficiently aligned such that one entity can represent both incumbents? Regarding prospective licensee interests, the Bureau anticipates Auction 110 for 3.45 GHz Service licensees to attract a variety of participants. Who should represent these prospective licensee interests on the search committee? Should it be one or more individual service providers, one or more industry associations? Are industry associations better positioned to serve as clearinghouse participants than individual service providers, particularly in advance of known auction winners? Should the Bureau take a different approach, such as combining categories of stakeholders? Given that each licensee, regardless of size or location, must pay a pro rata share of the relocation costs, is there a need for separate representation of small and rural businesses and if so, on what basis? Are there any other entities that should be included in the search committee?

The Bureau also seeks comment on the optimal number of members to include on the search committee. As noted above, the 3.7 GHz search committee was composed of nine members. As the Commission noted, compared to the 3.7 GHz band transition, however, the incumbent relocation in the 3.45 GHz band presents a less complex and costly process, with only two incumbents to be relocated at an estimated cost of \$3.1 million. In light of the relatively simpler relocation process involved here, is a nine-member search committee warranted or necessary? Would a smaller committee size suffice and perhaps be more efficient here? For example, would it be sufficient to have three members here—one representing the relocating incumbents, one representing the wireless industry, and one representing other

prospective bidders in the band? If not, what other interests or combinations of interests should be included?

Consistent with the 3.7 GHz proceeding, the Bureau proposes that after it releases a public notice announcing the entities that will comprise the search committee, each selected search committee entity would nominate one individual to serve on the search committee. The Bureau seeks comment on this proposal and any alternatives. Further, as in the 3.7 GHz proceeding, the Bureau proposes that the search committee would proceed by consensus, but if a vote on the selection of a clearinghouse is required, it would be by a majority vote. The Bureau also proposes that the search committee be composed of an odd number of representatives to prevent deadlock. The Bureau seeks comment on these proposals.

In the 3.7 GHz proceeding, the Commission directed the search committee to notify the Commission of the detailed selection criteria for the position of clearinghouse, consistent with the qualifications, roles, and duties of the Clearinghouse. The Commission also asked the search committee to ensure that the Clearinghouse meets relevant best practices and standards in its operation to ensure an effective and efficient transition. Consistent with this requirement, the 3.7 GHz band search committee submitted to the Commission a Request for Proposal that detailed the selection criteria and instructions for filing proposals for the 3.7 GHz band clearinghouse. The Bureau proposes that the search committee in the 3.45 GHz Service also submit to the Bureau detailed selection criteria for the role of Clearinghouse; such selection criteria must be consistent with the 3.45 GHz Band Second R&O and the Commission's rules. Should the Bureau include more specific requirements for the search committee's selection criteria? If so, what selection criteria are appropriate here? Further, should the search committee provide copies of the proposals or applications submitted to it by the potential Clearinghouse applicants? What oversight role by the Bureau is appropriate to ensure proper performance of the search committee and ultimately the entity that is selected as the Clearinghouse? The Bureau seeks comment on these issues.

The Bureau notes that, in the 3.7 GHz proceeding, the Commission instructed the search committee to impose a series of specific requirements on the Clearinghouse's work in administering the transition, e.g., to (1) engage in strategic planning and adopt goals and metrics to evaluate its performance, (2) adopt internal controls for its operations, (3) use enterprise risk management practices, and (4) use best practices to protect against improper payments and to prevent fraud, waste, and abuse in

its handling of funds. The Commission did not impose those requirements for this transition. The comparatively smaller size and lower level of complexity of the 3.45 GHz transition may mean imposing similar requirements on the 3.45 GHz Clearinghouse is unnecessary. The Bureau seeks comment on whether it should direct the search committee to require the Clearinghouse to fulfill some or all of these requirements. Are there alternate requirements we should direct the search committee to require? To what extent should the Bureau supervise the compliance with any such requirements?

In addition, we seek comment on the necessity of the search committee releasing a formal Request for Proposal here or whether a less formal selection process may be appropriate for the relocation process anticipated in the 3.45 GHz band. The Bureau seeks comment on any alternative proposals for the search committee to select the Clearinghouse, as long as any such alternatives are consistent with 3.45 GHz Band Second R&O and related rules. The Bureau also seeks comment on any other ways in which to tailor the Clearinghouse search committee process to the unique circumstances of the 3.45 GHz band.

Finally, the Bureau notes that the Commission's Prohibited Communications rules are in effect for this proceeding, and reminds interested parties to be mindful of these rules when speaking publicly about this proceeding, including through the filing of comments in response to this document.

Lists of Subjects in 47 CFR Parts 1, 2, and 27

Administrative practice and procedure, Common carriers, Communications common carriers, Telecommunications, Wireless communication services.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

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